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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,896	09/07/2000	Oliver Hericourt	FR9-1999-0112-US1	2212
33233	7590	07/26/2005	EXAMINER	
LAW OFFICE OF CHARLES W. PETERSON, JR. 11703 BOWMAN GREEN DRIVE SUITE 100 RESTON, VA 20190			LE, HIEU C	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/656,896

Applicant(s)

HERICOURT ET AL.

Examiner

Hieu c. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7, 9-17, 19, 20, 22, 23 and 25-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9, 14-17, 19, 20, 22, 23 and 25-44 is/are rejected.
- 7) ☒ Claim(s) 5, 10-13, 21, 35, 36 and 38-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The amendment file 4/29/05 have been entered and made of record.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 1, of this application is rejected under the judicially created doctrine of obviousness-type double patenting as being patentable over claim 7, of 6,892,303 in view of Waldin et al (US. Pat. 6,094,731).

As to claim 1, of this application, Claim 7 of the '303 Patent discloses a method for use in virus free certificate cache, of caching, one or multiple virus- free certificates, each virus-free certificate certifying that a file is virus-free, said the method comprising:

receiving a virus-free certificate request for a file (col. 26, line 14);

identifying the file in a cache table, said cache table comprising for each identified file one or a plurality of virus-free certificates (col. 15, lines 16-18);

selecting in the cache table one virus-free certificate for the identified file, using one or a plurality of anti-virus criteria (col. 26, lines 19-21); and

retrieving from the cache table said selected virus-free certificate (col. 26, lines 22-23).

Regarding claim 1 of this application, claim 7 of the '303 Patent does not discloses sending a request to a file server for a virus-free certificate associated with a file to download from said file server, said request comprising one or a plurality of requirements for said virus-free certificate; and

downloading the file and the associated virus-free certificate, said virus-free certificate comprising a file signature for certifying that the file is declared virus-free by a virus-free certificate authority;

Waldin discloses sending a request to a file server for a virus-free certificate associated with a file to download from said file server, said request comprising one or a plurality of requirements for said virus-free certificate [A recipient computer 11, receives a file and digital signature attached to the file to certify that the file is virus free (col. 5; lines 28-50, fig. 4). The step of sending a request to the sending computer (server) is obvious because the recipient computer has to send a request to the sending server to request the file and digital signature (certificate) are move to computer 11(recipient

computer) i.e. downloaded, an antivirus product such as Norton Anti Virus (one requirement) is run on the file (col. 3, lines 57-61) to insure it is virus free]; and

downloading the file and the associated virus-free certificate, said virus-free certificate comprising a file signature for certifying that the file is declared virus-free by a virus-free certificate authority [Fig. 4, step 60 shows that the file and the attached signature is moved to recipient computer 11 i.e. downloaded, the virus free certificate is certified by a certificate authority (col. 4, lines 37-42].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Waldin's teachings to modify the method of claim 7 of the '303 patent by sending a request to a file server for a virus-free certificate associated with a file to download from said file server, said request comprising one or a plurality of requirements for said virus-free certificate; and downloading the file and the associated virus-free certificate, said virus-free certificate comprising a file signature for certifying that the file is declared virus-free by a virus-free certificate authority in order to quickly detect a virus in computer files that are transmitted over computer network and verify the authenticity of a virus free certificate.

4. Claim 1, of US the patent of 6,892,303 is not patentably distinct from the combine of claim 4, of this application in view of Waldin et al (US. Pat. 6,094,731).

As to claim 1, of the '303 Patent, claim 4 of this application discloses,

determining whether a virus-free certificate satisfies said virus free certificate requirements and if no certificate satisfies the virus free certificate requirement (p. 2; lines 7-8); receiving from file server a list of available virus-free certificates; if a

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certificate is accepted by the client system (p. 2, lines 9-10), selecting from the list an available virus-free certificate for the file (p. 2, lines 11-12); and

a virus-free certificate proxy that can be used by the file server for a requesting a virus-free certificate when no virus-free certificate is locally available (p. 3, lines 4-5).

Regarding claim 1 of the '303 Patent, claim 4 of this application does not disclose identifying the file in a cache table, said cache table comprising for each identified file one or a plurality of virus-free certificates.

Waldin discloses a proxy server (cache) that includes a list (table) of a plurality of anti virus programs (file) (col. 3, lines 57-61). A list of a plurality of virus-free certificates belong to a virus-free certificate authority (col. 4, lines 37-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Waldin's teachings to modify the method of claim 4 of this application by identifying the file in a cache table, said cache table comprising for each identified file one or a plurality of virus-free certificates in order to quickly detect a virus in computer files that are transmitted over computer network and verify the authenticity of a virus free certificate.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (571) 272-3897.

The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Caldwell Andrew, can be reached on (571) 272-3868. The fax phone number for this Group is (571)-273-3897.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 273-8300

Hieu Le

A handwritten signature in black ink that reads "Andrew Caldwell". The signature is written in a cursive, flowing style.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER